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ROCKY FLATS OFFICE
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ERD:BKT:1706

Comments on "A NEPA Compliance Strategy for the Rocky Flats Environmental Restoration Program Consistent with DOE NEPA/CERCLA Integration Policy", dated October 1990

Laura Frick, Manager
NEPA
EG&G Rocky Flats, Inc.

ADMIN RECORD

Please find attached my comments on the draft document entitled "A NEPA Compliance Strategy for the Rocky Flats Environmental Restoration Program Consistent with DOE NEPA/CERCLA Integration Policy", dated October 1990, prepared by SAIC, S. M. Stoller Corporation, IT Corporation, and Dames & Moore for EG&G Rocky Flats, Inc.

While this document represents a first step toward integrating NEPA and CERCLA at the RFP, I believe this document can go further than it does in its current form. Specifically, I would like to see generic outlines for both RI/FS-EIS and RI/FS-EA documents that integrate NEPA into CERCLA. In addition, a strategy for integrating NEPA with removal actions (should a CX not be approved or not be issued soon) and interim remedial actions should be outlined and discussed (in Section 3.4). These outlines could serve as a starting point for a CERCLA/NEPA integration guidance document.

Since the signing of the IAG for the RFP by DOE, EPA and CDH has occurred, I recommend that this document be revised to include the most current schedule. In addition, since the decision has been made to prepare a SW-EIS for RFP operations, Section 4 should be revised accordingly. In additions, since EAs are planned for each of the OUs to be tiered to the SW-EIS, this document should more fully address the integration of an EA with a RI/FS. Finally, this document should discuss the implications of and strategy for preparing an integrated RI/FS-EIS document for an OU should the RI/FS-EA document indicate a need for a RI/FS-EIS.

Finally, I have recently become aware of an Oak Ridge National Laboratory (ORNL) document entitled, "Integrating NEPA and CERCLA Requirements During Remedial Responses at DOE Facilities", published in July 1990. Note that this ORNL publication is in much better form and goes further than the document that is being reviewed here towards NEPA/CERCLA integration. Thus, I question whether any additional work on the October 1990 document is necessary.

CORRES CONTROL
TRAFFIC

Reviewed for Addressee

Corres. Control RFP

DATE

BY

Bruce K. Thatcher, Jr.
Environmental Restoration Division

Attachment

cc w/attachment:
R. M. Nelson, Jr., DOE/RFO
R. J. Schassburger, DOE/RFO
T. Powell, DOE/RFO

DOCUMENT CLASSIFICATION
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Comments

Page 1, paragraph 1	Not able to follow last sentence on page 1 to page 2.
Page 11, OU15 Potential Actions	RI Plan or RFI Plan?
	<u>NEPA Specific Impact Categories</u>
Page 14, Table 2	1) Add cumulative to direct/indirect impacts 2) Add "aesthetic"
Page 15, Table 3	Should "RCRA" and "Hazardous and Solid Waste Amendments" correlate for the OUs?
Page 20, paragraph 1 & Page 22 - 24, Table 4	The NCP regulations given on this page, 40 CFR Part 300.63 to 300.68, are taken from 40 CFR Parts 300 to 399, revised as of July 1, 1989. The NCP regulations were revised and the final rule was issued in the Federal Register on March 8, 1990 (as noted on page 19). In the final rule, the hazardous substance response is located in Subpart E, from Part 300.400 to 300.440. This NEPA/CERCLA integration document should reflect the most recent revision of the NCP.
Page 20, Section 3.2	40 CFR 1508.14 defines "human environment" as including the "natural and physical environment and the relationship of people with that environment" (emphasis added). This definition is broader than "the natural and physical environment as related to people" as stated in the text. 40 CFR 1508.8 defines "indirect effects" and includes "air and water and other natural systems, including ecosystems".
Page 23, CERCLA Environmental Consequences	The nine evaluation criteria for detailed analysis of alternatives are: 1) Overall protection of human health and the environment, 2) compliance with ARARs, 3) long-term effectiveness and permanence, 4) Reduction of toxicity mobility, or volume through treatment, 5) short-term effectiveness, 6) implementability, 7) cost, 8) state acceptance, and 9) community acceptance.
Page 23, Scoping under CERCLA, Table 4	Should also state that scoping is detailed in 40 CRF Part 300.430(b) (revised NCP).

- Page 25, Section 3.3, paragraph 1 Note that the U.S. EPA guidance manual "CERCLA Compliance With Other Laws Manual: Part II" (EPA/540/G-89/009) in the second paragraph on page 4-1 addresses NEPA/CERCLA integration. Although not highly visible, the guidance recommends 1) that remedial project managers contact NEPA Compliance staff "early in the planning of a remedial action", and 2) that "procedures, protocol, or memoranda of understanding that, while not recreating the administrative aspects of the consultation or review process, ensure cooperation and coordination between the Regional Superfund and NEPA staffs, and between the Regional staff and the appropriate Federal agencies". The emphasis is on meeting the substantive requirements of the National Historic Preservation, the Archaeological and Historic Preservation, the Endangered Species, the Wild and Scenic Rivers, the Fish and Wildlife Coordination, the Coastal Zone Management and the Wilderness Acts as opposed to NEPA itself.
- Page 24, Public Involvement under CERCLA, Table 4 Should state that community relations are detailed in 40 CFR Part 300.430(c) (revised NCP).
- Page 23, Table 4 CERCLA Environmental Consequences The "CERCLA Compliance With Other Laws Manual: Part II" states that both on-site and off-site remedial actions should comply with both the National Historic Preservation and Archaeological and Historic Preservation Acts.
- Page 30, paragraph 1 The guidance manual for conducting RI/FSs under CERCLA states on page 2-12 that "plans should provide opportunities for public input throughout the remedial planning process as appropriate" (emphasis added). Thus, the scoping process under NEPA does not necessarily conflict with the CERCLA scoping process. DOE's requirement for NEPA/CERCLA integration requires public involvement during scoping.
- Page 31, paragraph 2 See previous comments regarding page 23, Table 4, CERCLA Environmental Consequences.
- Page 32, general It should be stated the DOE Order 5400.4 (7.a) requires that RI/FS-EA documents are prepared "no later than the conclusion of the feasibility study initial screening step". This will not be true for RI/FS-EIS documents. How will the lack of a proposed action at the post-screening process impact an EA report and a FONSI? Do both an EA and a FONSI have to have a proposed action?
- Page 32, paragraph 1 Reword to something like this:

The description of the proposed action and alternatives (and the analysis of environmental consequences) under NEPA must be adequately described in order to withstand public and judicial scrutiny. The same holds true for CERCLA documents.

- Page 32, paragraph 2 Describe in detail the problem in timing NEPA/CERCLA integration relative to DOE Order 5400.4 and the final IAG.
- Page 32, last paragraph It should be stated that 40 CFR Part 300, Appendix D, contains a partial listing of types of remedial actions.
- Page 33, paragraph 1 A brief discussion of the detailed analysis of alternatives found in 40 CFR Part 400.430 (e) (9) should be included, including the listing of the nine evaluation criteria prior to the 2nd paragraph.
- Page 33, paragraphs 3 and 4 40 CFR Part 1502.5 states that the EIS "will not be used to rationalize or justify decisions already made". Although the EIS document will contain a proposed action, the selection of a proposed action is not required until the document is actually prepared. Alternatives can be compared prior to identifying a proposed alternative. If a list of NEPA evaluation criteria for alternatives is prepared to augment the CERCLA evaluation criteria, the combined criteria should lead to a proposed action via the comparative analysis of alternatives under CERCLA. A comparison of this proposed action with the alternatives would satisfy NEPA regulations (40 CFR 1502.14). This comparison would also serve as our recommendation of a proposed action to EPA.
- Page 34, paragraph 3, 3rd sentence The CEQ regulations focus on both intensity (or severity) and context.
- Page 35, bullets Does the 2nd to the last bullet have the same meaning as 40 CFR Part 1508.27 (b) (10)? If not, modify to reflect the CEQ regulations.
- The last bullet is not present in 40 CFR Part 1508.27 (b). Where is the justification for its inclusion?
- An additional bullet should be included for 40 CFR Part 1508.27 (b) (1).
- Page 35, last paragraph It should be stated that the "Risk Assessment Guidance for Superfund - Volume I - Human Health Evaluation Manual (Part A)" (EPA/540/1-89/002) states in Section 1.2 on page 1 - 10 that "the risk evaluation of remedial alternatives is covered in Part C of the manual (not included as part of this interim final version)". Although this guidance document replaces the "Superfund Public Health Evaluation Manual" (or "SPHEM") (EPA/540/1-86/060), SPHEM contains a section devoted to the development of performance goals and the analysis of risks for remedial alternatives (Section 8). In particular, Section 8.6 addresses the assessment of potential short-term health effects of remedial alternatives. This assessment goes beyond the analysis of residual risk.
- Page 36, Section 3.4.5 40 CFR Part 1508.28 states that tiering allows the incorporation of broader EISs by reference in subsequent narrower EISs (or EAs) allowing the issues specific to the narrower EIS (or EA) to be evaluated.

Page 36,
Section 3.4.6

This section should, in addition to identifying the various types of risk assessments required under CERCLA, relate their timing to the RI/FS process. For example, the baseline risk assessment is part of the RI, whereas the analysis of risks for remedial alternatives is part of the FS. State that the baseline risk assessment is performed on the no action alternative.

Page 39, paragraph 2
last sentence

Propose a methodology for integrating CERCLA risk assessment and NEPA environmental consequences. Stating that the process will be complex is not a strategy.

Page 40, paragraph 5

40 CFR 1508.25 (b) and (c) requires agencies to consider alternatives in determining the scope of an EIS and impacts, respectively. Impacts include cumulative impacts.

Page 42, line 1

Add removal and interim remedial actions.

Page 58, paragraph 3

Should OU No. 0 be OU No. 15?

Page 59, paragraph 2

It should be stated that both EPA Region VIII and the CDH strongly oppose the integration of NEPA with CERCLA. The implication(s) of their opposition should be described.

Page 56, paragraph 1
last sentence

I agree that a separate NEPA/CERCLA integration guidance document should be prepared in the near future. However, it is my opinion that this specific document should take the integration process further prior to preparing a guidance document. Specifically, this document should include the CEQ outline for an EIS report (40 CFR Part 1502.10), a generic outline for an EA report, and the recommended outline for an RI/FS ("Guidance for Conducting Remedial Investigations and Feasibility Studies Under CERCLA", EPA/540/G-89/004). Specific portions of these outlines which have nothing in common should be identified. In addition, those portions having topics in common, but with significant differences should be identified. Based on this analysis, generic outlines should be prepared for both RI/FS-EA and RI/FS-EIS documents which fully integrate NEPA into CERCLA. This would be a good starting point for developing a NEPA/CERCLA integration guidance document.